

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION

BOARD OF TRUSTEES OF THE OHIO
LABORERS' FRINGE BENEFIT
PROGRAMS,

Plaintiff,

v.

GEAUGA COUNTY EXCAVATING, INC.,

Defendant.

Case No. 2:19-cv-1812

JUDGE EDMUND A. SARGUS, JR.

Magistrate Judge Kimberly A. Jolsen

OPINION AND ORDER

This matter is before the Court for consideration of the Magistrate Judge's November 21, 2019 Report and Recommendation, (ECF No. 12) recommending: (1) Plaintiff's motion (ECF No. 9) be granted; (2) Defendant and Derek W. Estvanik be held in contempt; (3) if Defendant does not comply with the Court's August 20, 2019 Order (ECF No. 8) within twenty-one days of the adoption of this Report and Recommendation, Derek W. Estvanik be arrested until such time as Defendant complies with the Court's August 20, 2019 order; and (4) Defendant be ordered to pay the attorney's fees and costs Plaintiff reasonably incurred in connection with its Motion for Contempt. The Report and Recommendation advised the parties that failure to object within fourteen days would result in a waiver of review. The time period for objections has run and no party has objected to the Report and Recommendation. Accordingly, the Court **ADOPTS** the Report and Recommendation (ECF No 12).

Therefore, Plaintiff's motion (ECF No. 9) is **GRANTED**. Defendant and Derek W. Estvanik are **HELD IN CONTEMPT**. If Defendant does not comply with the Court's August 20, 2019 Order (ECF No. 8) within **TWENTY-ONE DAYS** of adoption of this Report and Recommendation then the Derek W. Estvanik shall be **ARRESTED** until it complies with the

Court's August 20, 2019 order. The August 20, 2019, order requires Defendant to appear for deposition on a date and time as determined by Plaintiff and produce documents requested in Plaintiff's Notice of Deposition and Request for Production of Documents (ECF No. 7). The documents requested are all payroll records of Geauga County Excavating, Inc., from May 18, 2018, through the date of production, including but not limited to, the following:

1. Weekly payroll journals for all employees, showing hours worked.
2. Individual earnings records of all employees, showing hours worked.
3. Payroll tax returns; quarterly returns; F-941, Form W-3, and related memorandum; receipts for federal taxes from depository bank; federal W-2 form; workers' compensation return; and unemployment compensation return.
4. Employer reports to other trust funds.
5. Contracts for works-in-progress or to be performed.
6. Contracts, invoices and certified payroll documents for all work performed in Ohio from May 18, 2019, to the date of production.
7. Copies of any and all bonds covering work.

Additionally, Defendant is **ORDERED** to pay the attorney's fees and costs Plaintiff reasonably incurred in its connection with its Motion for Contempt.

IT IS SO ORDERED.

12-19-2019
DATE


EDMUND A. SARGUS, JR.
UNITED STATES DISTRICT JUDGE